Evaluation of Phase 1 of the National Regulatory System for Community Housing

Final Evaluation Report

15th November 2013
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Executive Summary

Headline finding

Overall, within the constraints of a testing phase, community housing providers participating in Phase 1 were satisfied that the guidelines, procedures and systems for registration through the National Regulatory System for Community Housing (NRSCH) were fit-for-purpose.

Registrars from the six jurisdictions that undertook Phase 1 registration assessments (NSW, Vic, Qld, SA, WA, ACT) confirmed that they were able to appropriately apply the agreed NRSCH guidelines and procedures.

No critical or systemic ‘flaws’ were identified through Phase 1—although providers and Registrars stressed the need for continued development work and ongoing reviews of the guidelines, procedures and systems to ensure the consistency, rigour and proportionality of the Registration process.

Based on these experiences, there is strong support for transitioning from state-based regulatory systems to the NRSCH. This overall finding was consistent across all participating jurisdictions and all registration tiers.

Application for registration

Phase 1 providers were generally satisfied with the information and support to prepare for applying for registration and the clarity of the guidelines and procedures.

- 73% of Phase 1 providers\(^1\) agreed and a further 23% partly agreed that the NRSCH Charter and Regulatory Framework documents clearly explained the broad approach and requirements for registration
- 75% of Phase 1 providers\(^1\) agreed and a further 19% partly agreed that the Registration Application Guide clearly explained the steps and process for seeking registration
- 85% of Phase 1 providers\(^2\) agreed and a further 10% partly agreed that the arrangements for communicating with their Primary Registrar were adequate.

However only 13% of Phase 1 providers\(^3\) fully agreed that the time and resources required to undertake registration were reasonable. Most of these concerns related to the ‘pilot’ nature of the Phase 1—where providers had only limited time to become familiar with the requirements for registration and to prepare their evidence submissions. This was particularly problematic in terms of completing the Financial Performance Report.

\(^1\) Based on 16 electronic survey responses to the first Phase 1 provider survey (70% response rate)
\(^2\) Based on 20 telephone and electronic survey responses to the second Phase 1 provider survey (87%)
\(^3\) Based on 84% response rate to the third Phase 1 provider survey
Providers indicated that the evidence requirements for registration were broadly reasonable—but highlighted that greater consideration needs to be given to helping providers to understand these requirements and ensuring adequate lead times prior to the commencement of the registration application process. Further, providers highlighted that the performance metrics and thresholds used in the Registration assessments were broadly sound—but needed ongoing review and updating as additional data was collected through Phase 2.

**Registration determinations**

Of the 23 providers participating in Phase 1, 19 providers received a draft report outlining the Phase 1 registration determination—with one provider voluntarily withdrawing because of competing business pressure and time constraints in Phase 1. Three providers from one jurisdiction are still awaiting receipt of their draft report.

Overall, half of these providers (86% of Tier 1; 50% of Tier 2; 33% of Tier 3) received an unqualified determination indicating that they had demonstrated the capacity to meet the requirements for registration assessed in Phase 1.

The remaining 50% all received qualified determinations (14% of Tier 1; 50% of Tier 2; 67% of Tier 3) indicating that the provider would need to submit additional evidence to demonstrate the capacity to comply. Registrars highlighted that the qualified determinations in large part reflected the Phase 1 timetable that did not allow sufficient time for providers to submit all the required evidence or for Registrars to work with providers to clarify additional evidence requirements. This particularly impacted on Tier 3 providers’ capacity to submit the required financial information.

In this context, Phase 1 providers were generally satisfied with the transparency and validity of the draft Registration determinations.

- 64% of Phase 1 providers agreed and a further 29% partly agreed that the registration assessment findings were adequately documented in the draft report
- 60% of Phase 1 providers agreed and a further 33% partly agreed that the basis for the registration determination was transparent
- 60% of Phase 1 providers agreed and a further 33% partly agreed that the recommendations and improvement actions identified in the draft report were sound.

Only one Phase 1 providers raised strong concerns about their draft registration report and determination—and their feedback primarily related to issues about confusion between the jurisdictional mirror legislation and the National Law.

Other Phase 1 providers highlighted that the transparency and validity of the draft registration determinations could be improved by:

- Presenting the finding in a way that unambiguously communicates which performance requirements the applicant had demonstrated the capacity to comply with (or had not demonstrated the capacity to comply with)
- Providing greater detail on the specific reasons and requirements that had not been met to demonstrate the capacity to comply with a particular performance requirement—which were often stated too broadly for providers to understand the threshold requirements for additional evidence or system changes
- Providing additional contextual information to understand the rationale for recommendations made about demonstrating ongoing compliance.

**Recommendations for Phase 2**

Phase 1 providers and Registrars highlighted a number of areas where the registration process could be improved for Phase 2—as well as recognising the need for ongoing system development and review to continue to refine the evidence requirements, performance thresholds and supporting documentation as greater experience is gained throughout Phase 2.

Recommendations for Phase 2 improvements and the ongoing development of the NRSCH covered seven themes.

- consistency and alignment across the various NRSCH Guidelines, Guidance Notes and the CHRIS Portal
- clarification and consolidation of the core NRSCH policy positions within a gazetted Regulatory Framework
- disclosure and consistent assessment of Affiliated Entity Arrangements
- information and support for providers to prepare for registration—particularly in relation to evidence to demonstrate financial and governance outcomes
- ongoing Registrar / Analyst training to ensure nationally-consistent regulatory decisions
- quality assurance of registration determinations
- promotion of the integrity of the national system—including resolving issues related to participating jurisdictions; establishment of the National Regulatory Council; consistency and alignment of jurisdictional applied laws; separation of regulatory and policy / funding decisions; information sharing between Registrars and Housing Agencies; and minimising duplication of reporting.
1. Introduction

On 28 March 2013 the COAG Select Council on Housing and Homelessness announced that the National Regulatory System for Community Housing (NRSCH) would start for participating jurisdictions on 1 July 2013 through a phased implementation.

The phased implementation includes six months of testing of the registration processes and procedures from 1 July 2013 (Phase 1). Registration under the new system will formally commence in 2014 (Phase 2), with an 18 month transition period.

As part of Phase 1, Ministers agreed to an independent evaluation to assess whether the guidelines, procedures and systems for registration are fit-for-purpose and to recommend any refinements and changes in preparation for Phase 2.

ARTD Consultants have been engaged to undertake the evaluation—which is being oversighted by the Housing and Homelessness Ministers’ Advisory Committee (HHMAC) and their NRSCH Working Group.

A copy of the Evaluation Report will be presented to the National Regulatory Council to assist them in providing advice to Housing Ministers on systemic issues that impact on the implementation and effectiveness of the NRSCH.

1.1 NRSCH

The NRSCH is a national system of registration, monitoring and regulation of community housing providers. The system is designed to encourage the development and viability of community housing, to facilitate investment in the sector by promoting confidence in the good governance of community housing providers and reducing regulatory barriers and burdens to providers who currently, or plan to, operate in more than one jurisdiction.

The NRSCH is being developed through an applied law scheme with NSW as the Host State. On 22 August 2012, the NSW Parliament passed the Community Housing Providers (Adoption of National Law) Act 2012 (NSW) which provides uniform template legislation – the National Law for Community Housing Providers - for the National Regulatory System. Other participating jurisdictions have either submitted or plan to submit to their Parliaments legislation that applies the National Law or substantially corresponds to the National Law.

Under the National Law, each participating jurisdiction appoints a Registrar who has responsibility for the registration and regulation of providers that operating in that jurisdiction.

Where a provider operates in multiple jurisdictions, a Primary Registrar is nominated to manage all aspects of registration and regulator—so that multi-jurisdictional providers only deal directly with one Registrar.
The National Law includes the National Regulatory Code, which sets out the performance outcomes and requirements that must be met by registered community housing providers under the NRSCH. The NRSCH establishes the National Register—which records details of all registered community housing providers. The Register is divided into 3 parts—Tier 1, Tier 2 and Tier 3—reflecting differences in the scale and scope of different community housing providers.

### 1.2 Phase 1

Phase 1 of implementation of the NRSCH is a six-month period of national testing and evaluation of the registration processes and procedures of the new system from 1 July 2013 to 31 December 2013.

In total, 23 community housing providers were selected to participate in Phase One with representation from participating states and territories and across the three tiers of registration (Table 1). Nomination of participants was managed through a select Expression of Interest (EOI) process at a jurisdictional level with the assistance and advice of state/territory industry peaks and housing agencies.

Four of the Phase 1 providers operate at scale in more than one jurisdiction—although a number of these choose to participate in Phase 1 as a subsidiary entity that operates in either a single jurisdiction or a limited number of jurisdictions. One of the Phase 1 providers was an Indigenous Community Housing Organisation (ICHO) and a number of other Phase 1 providers had a significant number of Aboriginal tenants.

<table>
<thead>
<tr>
<th></th>
<th>Tier 1</th>
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<th>Tier 3</th>
<th>Total</th>
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<td>1</td>
<td>1</td>
<td>4</td>
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<tr>
<td>Victoria</td>
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<td>4</td>
<td>6</td>
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<tr>
<td>South Australia</td>
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</table>

Phase 1 involved organisations applying to their Primary Registrar for registration as a community housing provider in a particular tier. Providers were required to make the application in a prescribed format using the on-line Community Housing Regulatory Information System (CHRIS) and attach relevant supporting evidence and two supplementary forms – the financial performance report (FPR) and the Community Housing Asset Report.
The registration guidelines, procedures & systems covered by Phase 1 include the NRSCH:

- Charter
- Regulatory Framework - Phase 1
- Tier Guidelines
- Evidence Guidelines
- Registration Application Guidance Note
- Financial Viability Guidance Note
- Additional Standard Conditions of Registration Guidance Note
- Affiliated Entity Arrangements Guidance Note

As part of Phase 1, each Primary Registrar assessed applications for registration and made a draft determination about eligibility for registration and the appropriate tier of registration—producing a report setting out and explaining their findings.

Phase 1 did not cover all aspects of the NRSCH—in particular the:

- Enforcement Guidelines
- Information Sharing Guidelines
- Complaints and Appeals Guidance Notes
- Compliance Framework.

More broadly, the nature of the Phase 1 process meant that Registrars could only make a draft determination on the application for registration—reflecting the fact that some conditions of registration were not assessed (e.g. constitutional wind-up provisions) and the timing of Phase 1 meant that providers and Registrars did not always have sufficient time to submit and assess all required evidence.

In this context, a satisfactory determination in Phase One may be used by a provider for the purpose of a registration decision after 1 January 2014 for a limited period of time, subject to any additional requirements and the status of the registering jurisdiction in the lead up to 1 January 2014. Providers assessed under Phase One can also seek a fresh registration assessment after 1 January 2014 on a 'without prejudice' basis.

### 1.3 Phase 1 Evaluation

The Terms of Reference for the NRSCH Phase 1 Evaluation were to:

1. Assess whether the Phase 1 guidelines, procedures and systems for registration are fit-for-purpose for Tier 1, 2 and 3 providers; for multi-jurisdictional and single jurisdictional providers; and for different organisational and delivery contexts
2. Assess whether Registrars from participating jurisdictions are able to consistently and systematically apply the guidelines, procedures and systems for registration
3. Recommend refinements and changes to the registration guidelines, procedures and systems in preparation for Phase 2.

In line with the scope of Phase 1, the evaluation covered the guidelines, procedures and systems involved in applying for and assessing community housing providers for registration under the National Law—that is:
• Establishing provider eligibility for registration in a particular Tier
• Assessing capacity to meet requirements for registration in a particular Tier
• Communicating and reporting the draft determination of the Phase 1 registration assessment.

Given the ‘testing’ focus of Phase 1, a formative evaluation methodology was adopted that enabled every step of the process to be considered as it was implemented. This meant that evaluation activities were conducted at key points throughout Phase 1, such as during preparation of applications, after the assessment process was complete and once providers had received their draft reports. The purpose of this formative approach was to ensure that issues and system changes could be identified early and referred to the NRSCH Working Group to incorporate into any design and system changes for Phase 2—rather than waiting for the final evaluation report.

The methodology for this formative approach involved a rolling-series of surveys and consultations involving the Phase 1 community housing providers and the six Registrars undertaking registration assessments. Details of the component and timing of the evaluation activities are summarised in Attachment 1.

1.4 Evaluation reports

Two Evaluation Progress Reports have previously been submitted to the NRSCH Working Group.

• Progress Report 1 (15th August 2013) presented findings on the first part of the process of applying for registration (Eligibility and Tier Form)—drawing on an initial on-line survey of Phase 1 providers and a validation workshop with Registrars
• Progress Report 2 (1st October 2013) presented findings on the full Application for Registration—drawing on a post-application survey of Phase 1 providers; feedback collated by the Community Housing Federation of Australia on the experiences of Phase 1 providers; and a validation workshop with providers to discuss a preliminary evidence summary report (25th September 2013)

This evaluation report incorporates the cumulative findings of these Progress Reports as well as additional provider and Registrar feedback on the assessment process and draft registration determinations. It covers feedback from the:

• third survey of Phase 1 providers about their draft registration determination
• separate teleconferences with Tier 1, 2 and 3 providers to confirm their overall feedback on the Phase 1 guidelines, procedures and systems
• two workshops with Registrars to confirm their overall feedback about the Phase 1 assessments and draft determinations.

The evaluation report is structured around the Phase 1 process—covering the eligibility and tier assessment process (Section 2), the full application for registration (Section 3) and the registration assessment and determination process (Section 4). Section 5 outlines a set of recommendations for improvement for Phase 2.
2. Eligibility and Tier Assessment

2.1 Eligibility and Tier assessment process

The application for registration is presented in the Registration Application Guide as a two stage process—with all providers seeking registration completing an Eligibility and Tier Form (ETF) and an Application for Registration (AFR).

According to the Guide, the ETF is used to confirm that an organisation is eligible to apply for registration as a community housing provider and to make a provisional decision of the tier of registration. The ETF collects evidence from the provider to demonstrate their eligibility and tier for registration under the NRSCH. The Tier Guidelines set out the eligibility requirements by tier.

The ETF requires providers to submit:

- standard business information, including affiliated entities
- contact people
- the provider’s community housing development program (if engaged in community housing development activity)
- their constitution
- a community housing asset report

In addition the CHRIS portal asked provides to submit copies of their Business Plan and Annual Report.

According to the Guide, providers have 14 days from the start date to complete and submit the ETF. When the Primary Registrar has received the ETF they will normally assess this within seven days.

2.2 Scope and functionality of the EFT

Phase 1 providers had somewhat mixed views about the appropriateness of the requirements, procedures and system for submitting the Eligibility and Tier Form—with around three-quarters either agreeing (38%) or partly agreeing (38%) that the ETF in its current form was appropriate and 26% disagreeing or partly disagreeing.

Providers were supportive of the rationale of a two-stage process to firstly establish general eligibility and provisional tier—prior to proceeding with the full application for registration. However, in practice, there were a range of issues relating to overlaps between the ETF and the Application for Registration as well as with the functionality of some aspects of the CHRIS form.

Registrars also highlighted that analysts were unclear why some information was being collected at the ETF stage and some discrepancies between the ETF and the Tier Guidelines.
The broad consensus was that the scope of the ETF is correctly stated in the Registration Application Guide (i.e. to confirm that an organisation is eligible to apply for registration as a community housing provider and to make a provisional determination of the tier of registration)—but that additional information was being asked for on the form and analysts were being asked to make assessments that were more appropriate as part of the full Application for Registration. Specific issues are detailed in the following sections.

2.3 Assessing general eligibility

A large part of the potential confusion about the EFT and the AFR relates to the fact that there is no unambiguous, consistent statement of the general eligibility requirements for registration in the National Law, Tier Guidelines and the Regulatory Framework.

The National Law does not have eligibility requirements but states that a Registrar must approve an application for registration if the Registrar is satisfied that the entity:

- provides or intends to provide community housing in a participating jurisdiction
- will comply with the community housing legislation of the participating jurisdiction
- will comply with any conditions of registration.

It may also be interpreted that the National Law implies that certain conditions of registration must be in place at registration and are therefore de-facto eligibility criteria—namely that the entity:

- has a provision in its constitution for all its remaining community housing assets in a participating jurisdiction on winding up to be transferred to another registered community housing provider or to a Housing Agency in the jurisdiction in which the asset is located
- must keep a list of all of the community housing assets in a form approved by the primary Registrar and must make this list available upon request.

Phase 1 providers have been advised that the wind-up clause requirement is not being tested as part of Phase 1.

The Tier Guidelines have explicit eligibility requirements (Section 6)—but does not reference the general eligibility criteria in the National Law. The Guidelines state that to be registered in a particular tier, an entity must

- meet the incorporation requirements for the particular tier
- demonstrate it meets the evidence requirements for the particular tier
- demonstrate it maintains controls over activities and decisions that impact on its compliance with the National Law.

The Regulatory Framework (Phase 1 draft) references the National Law criteria but not the Tier Guidelines eligibility criteria.

These different descriptions of eligibility appear to have ‘muddied’ the scope and focus of the ETF. Specifically it is not clear:
why the Business Plan and Annual Report are required as part of the ETF (unless the intent is to use it to determine whether an entity provides or intends to provide community housing)

- whether it is best to assess affiliated entity arrangements at the EFT stage or as part of the full assessment (e.g. simply disclosing them at the EFT to flag a full assessment of the AFR) [see Section 3.5]
- whether Registrars are required to assess the completeness of the community housing asset register as an eligibility criteria [see Section 3.6]
- whether Registrars are required to assess compliance of a provider’s constitution with the wind-up provision as part of the eligibility assessment. This is further confused by the fact that the Registration Application Guide states that a provider’s constitution will be examined to see whether it includes “clauses required by state housing authorities” (page 15)—rather than referring to constitutional requirements in the National Law.

These comments highlighted the importance of better communication of the policy position on eligibility within the NRSCH Regulatory Framework (see Section 5 - Recommendation 2) and aligning this with the information requested on the Eligibility and Tier Form (see Section 5 - Recommendation 4).

### 2.4 Determining provisional tier

Phase 1 providers were generally very positive about the clarity of the Tier guidelines in explaining the differences between the three tiers—with 88% agreeing and 13% partly agreeing that they clearly explain the requirements for seeking registration in a particular tier.

Further the vast majority of providers (93%) agreed that the assessment of eligibility and tier by their Primary Registrar was appropriate. One provider with around 100 properties indicated that they expected to be a Tier 2 provider because of their growth ambitions but accepted the Registrars provisional determination as a Tier 3 provider. Another provider wanted to apply for Registration as a Tier 1 provider, but indicated that they were only given the opportunity to apply as a Tier 2 provider based on the scale of their current development activities.

Within this context, Registrars and providers highlighted a number of areas for refinement. Specifically:

- The quantitative definitions of scale of community housing activities need to be incorporated into the Tier Guidelines (e.g. maximum of either the number of community housing tenancies or the number of community housing properties with asset management responsibilities)
- The use of overlapping description boundaries in the Tier Guidelines for small, moderate and large scale remains a source of confusion (e.g. how should a registrar decide whether a provider with 400 properties is moderate scale (50-500) or large scale (more than 350)
The quantitative definitions of the scope of development activities (provided verbally at the briefing session) need to be incorporated into the Tier Guidelines—as well as further guidance on what constitutes “committed” developments.

The eligibility requirements in the Tier Guidelines define the tiers in grouping of larger scale / higher risk development activities (Tier 1); moderate scale / moderate risk development activities (Tier 2); and small scale / lower risk development activities (Tier 3)—but does not consider other combinations e.g. small scale / moderate risk development activities.

There is no guidance about what factors Registrars should take into account when, based on Table A1, a provider could be in more than one tier e.g. large scale and moderate development activity risk could be either Tier 1 or 2.

Clarification is needed about the process whereby a provider may exercise their right under Clause 14 of the Tier Guidelines “to apply to be registered in any tier—regardless of its past, current or planned scale and type of community housing activities”—given that the current ETF process results in Registrars asking providers to submit an AFR in a tier provisionally determined by the Registrar.

These issues could be addressed by gazetting an updated version of the Tiers Guidelines to include quantitative definitions of the scale of community housing activities and development activities, and a description of the principles used by Registrars for making a provisional determination of Tier when a provider sits across the tier boundaries (see Section 5 – Recommendation 3).

In addition, the Registration Application Guidance Note and the CHRIS-generated letter about provisional tier determination should be reviewed to reflect these changes—including clearer messages about the rights of provider to submit the full Application for Registration in a higher Tier than the provisional determination. While this is an important foundational principle of the NRSCH, the desire of some providers to be registered in a higher tier appears to be driven by the perception that this is necessary to be eligible for new growth opportunities. Jurisdictional policy and funding agencies will need to be aware that they may be unnecessarily encouraging providers to take on increased regulatory burden because of their messages about access to growth opportunities.

2.5 Affiliated entity arrangements

Phase 1 providers, in particular Tier 1 providers and multi-functional Tier 2 providers, had somewhat mixed views about the clarity of the Affiliated Entity Arrangements Guidance Note.

Most Tier 1 providers disagreed (or only partly agreed) that the Affiliated Entity Arrangement Guidance Note clearly explained the requirements associated with affiliated entity/related party arrangements. Specifically these providers had problems identifying what to send in for affiliated entities and were not clear how the information was going to be used. There is also limited guidance in the Registration Application Guide on what is expected in terms of confirming details of affiliated entry arrangements.
While the Tier Guidelines state that providers with affiliated entity arrangements must demonstrate that they maintain controls over activities and decisions that impact on their compliance with the National Law, a number of providers and analysts highlighted:

- Given the timeframe for the ETF phase, it may be more appropriate to focus the ETF on declaring any affiliated entity arrangements—which would then trigger a requirement to provide additional evidence in the AFR to demonstrate control over activities and decisions that impact on its compliance with the National Law
- The need for a standard template for providers to submit evidence during the AFR to demonstrate control for each declared affiliated entity arrangement
- The need for a standard methodology for analysts to use during the AFR outlining the lines of enquiry to assess whether the submitted evidence meets the required threshold of “demonstrating control”
- The need for a quality assurance / peer review process to support analysts in assessing complex affiliated entity arrangements.

These comments highlight the importance of better communication about the specific requirements for disclosure of affiliated entity arrangements and providing tools to assist with disclosure (see Section 5 - Recommendation 5). Registrar assessment of affiliated entity arrangements has been identified as a priority area for increased guidance, training and quality control (see Section 5 – Recommendations 14 and 15).

Further, the Tier Guidelines (Clause 27) states that the Registrar is required to consider ‘related-party’ arrangements of an entity in making a determination of the registration Tier - but there is no clear rationale or mechanism in place to enable this to happen. Confirmation is needed of the intent of this requirement—and whether the real intent is that the affiliated entity arrangements may impact on the risk profiling of the provider as part of monitoring ongoing compliance (see Section 5 – Recommendation 3).

### 2.6 Community housing asset report

Phase 1 providers were generally positive about the clarity and appropriateness of the requirements and system for submitting the Community Housing Asset Report—with 56% agreeing and 38% partly agreeing that they were appropriate.

The main issues related to:

- Clarifying what needs to be included in the asset report—with some providers highlighting that greater input is needed from Housing Agencies to confirm what community housing assets need to be included
- The need for clear definitions of all terms and data items used in the asset report
- The need for clearer definitions for the different categories of properties
- The need for the form to capture whether the organisation is responsible for undertaking property condition reports to ensure properties are maintained to relevant standards.

At the EFT stage, the main rationale for the community housing asset report is to measure the scale and scope of community housing activities for the purposes of determining the provisional Tier.
However, there is also a reference in the Registration Application Guide stating that the community housing asset report will be used to determine “compliance” with the National Law requirement to maintain a list of community housing assets in an approved form. There is currently no mechanism for Registrars to confirm whether the submitted community housing asset report is complete—given that it would require matching against Housing Agency records—and it is not clear at what point in time such verification is needed.

There is a need to clarify the policy position on requirements related to the maintenance and confirmation of the Community Housing Asset List—and for this to be reflected in the NRSCH Regulatory Framework and the Eligibility and Tier Form (see Section 5 – Recommendation 2 and 4).

### 2.7 Registration Application Guidance Note

While providers found the Registration Application Guide “a very useful starting point”, a number of suggestions for improvement were made to make it easier to use. Providers suggested that the Registration Application Guide could be improved by:

- re-formatting and re-writing some of the text to make a clearer distinction between the ETF and AFR. At present the Regulatory Framework (Phase 1 draft) makes no reference to the two stage process or the ETF.
- reviewing the consistency of concepts and terminology in the Registration Application Guide with other NRSCH documentation.

In large part these comments reflect the ‘evolutionary’ nature of the development of much of the NRSCH documentation—and providers were generally very appreciative of the significant effort invested to date. However they highlighted that many of the documents did not fully link together (see Section 5 – Recommendation 1).
3. Application for Registration

3.1 CHRIS information system

Phase 1 providers had somewhat mixed views about the ease of use and functionality of the CHRIS online information system for submitting the EFT and AFR—with only one quarter (25%) fully agreeing and just over half (55%) partly agreeing that the CHRIS system was easy to use. One in five providers (20%) indicated that the CHRIS system was not easy to use.

In general, providers were very positive about having a single online system for preparing and submitting the NRSCH evidence. One provider commented that “the concept of the electronic system, the ability to attach documents, and the ability to lodge the application electronically is a huge step forward....especially as we envisage that in future years the system will have retained all of the base data and it only need to be updated as needed”.

Another provider commented⁴ that “while there are some deficiencies with CHRIS which need to be ironed out, the concept of being able to report electronically like this is welcomed and supported. We appreciate that a lot of work has gone into this and with some amendments it can become an extremely useful and easy tool to use. We have found it incomparably better than the several box files of paper we had to put together for state regulation process”.

At the same time there were a number of suggestions for system improvements that could be considered for Phase 2—albeit with providers acknowledging that current shortcoming partly related to needing more time to become familiar with the system. Common suggestions for improvement included:

- Incorporating an auto-save option instead of having to manually save the updated application each time a new document is attached
- Allowing multiple documents to be loaded in batches—rather than loading one document at a time. Providers highlighted that attaching documents was time consuming. One provider suggested that the system could have folders where multiple documents could be uploaded (e.g. all governance documents)
- Improving system navigation particularly the process for moving between attaching documents and the application form itself—so that you are taken back to the place where you left the application form rather than back to the beginning of the form. One provider suggested that it would be useful if there was a flag that let you know how close you were to completing the application
- Improving functionality to delete duplicate entries entered in error (e.g. in the partnerships section)
- Streamlining access to supporting documentation—by providing links in each performance outcome to relevant support documentation about requirements.

⁴ Recorded in the report of the CHFA teleconference with Phase 1 providers
Some providers found it difficult to match up the NRSCH Evidence Guidelines with the portal questions that related to particular data metrics—and suggested that all metrics be incorporated into the Evidence Guidelines

- Generating a CHRIS portal provider summary report collating the quantitative information and title of documents lodged—to make it easier to link the registration application with Registrar feedback in the draft determination.

More specifically, providers and Registrars have logged a large number of technical issues in the National Issues Log that is being monitored and responded to by the system developers.

In preparing for Stage 2, providers and analysts highlighted the need for the CHRIS User Guide and potentially a CHRIS help desk given the larger number of providers that will be using the system for the first time (see Section 5 – Recommendation 9).

### 3.2 Data and evidence requirements

Phase 1 providers had mixed views about the appropriateness and clarity of some of the application questions and information required to be submitted with the Application for Registration—with only 16% fully agreeing and 42% partly agreeing that the questions and information requirements were sufficiently clear.

In general, most of the concerns related to issues about specific performance metrics and thresholds (Section 3.3) and the Financial Performance Report (Section 3.4). However, there were also a range of comments, particularly from Tier 2 and 3 applicants, about the need for greater clarity with the definitions and explanations of the type of evidence required. Key issues related to:

- The distinction between National Regulatory Code outcomes where the data and evidence relates to community housing activities (Outcomes 1, 2 and 3) and outcomes where the data and evidence related to the entity as a whole (Outcomes 4, 5, 6 and 7)

- The need for more explicit and consistent linkages between the application questions / information requested and the particular performance requirements outlined in the Evidence Guidelines and the explanations provided in the Application Guidelines. For example:
  - Section 1.2 of the Application Form refers to ‘number of tenancies’ whereas the Application Guidelines refers to ‘tenanted properties’ – which may not be the same thing
  - Section 2.1 (2.1.2) of the Application Form (Inspecting Parties Qualifications) provides no guidance on what is expected to be provided

- The level of specificity of the evidence requirements for some parts of the CHRIS portal application—in contrast to the Evidence Guidelines that highlight that applicants have flexibility in determining the specific evidence to be submitted. For example, a question on community engagement asked providers to attach copies of all partnership agreement—rather than simply listing partnership agreements.
Providers interpreted these questions as implying that copies of the partnership agreements were a mandatory evidence requirement

- The level of details required for particular evidence requirements. For example, Tier 1 providers did not believe it was meaningful to ask for 20 year financial projections—particularly given that private investors only require 10 year financial projections
- The need for more extensive documentation in the Application Guidelines and the pop up boxes about the intent of each question and what is expected to be demonstrated. In particular, a number of Tier 2 and 3 providers commented that the current wording and explanations appeared to be ‘geared’ towards Tier 1 providers and more tailored information was needed for small providers.
- The need for additional guidance on how evidence from accreditation against the National Community Housing Standards can be used to demonstrate the capacity to meet the National Regulatory Code outcomes
- The need for extensive promotion of the specific data items in the Financial and Non-Financial Performance Data sets—to ensure organisations have time to tailor their information systems to easily extract the required information. Some Tier 3 providers reported having to go back to paper records to manually count certain data items during Phase 1.

At the same time, no providers raised any critical ‘flaws’ about the data and evidence requirements—and a number commented that their views reflected the fact that much of the Registration Application process was ‘new’ or ‘different’ to what they previously been required to report on.

Importantly at the time of submitting their AFR, only a small proportion of Phase 1 providers (15%) indicated that the amount of time and resources required to complete the registration application was unreasonable—and only 8% of Tier 2 or 3 Phase 1 providers indicated that the impact was unreasonable.

Among Tier 1 applicants, only 14% fully agreed that the time and resources required to complete the registration application was reasonable—with a further 57% partly agreeing. The open-ended comments from Tier 1 providers indicated that those that did not fully agree were mainly concerned about the impact of completing the Financial Performance Report (see Section 5.4). One Tier 1 applicant that had not previously been subject to an NRSCH-style regulatory system indicated that they were not expecting the AFR to be so resource intensive—but acknowledged that this may reflect the fact that they had not previously participated in a full registration assessment. In contrast, other Tier 1 providers with previous experience of registration assessments indicated that they were well prepared and able to use existing documentation from previous registration assessment—albeit the ‘one-off’ adjustment to the new performance requirements created resource pressures during the 6 week application time period. Other Tier 1 providers raised concerns that they had not seen any evidence of the intention to streamline reporting to Policy and Funding Agencies—which if it did not occur would negate any benefits of red tape reduction associated with the NRSCH.
Among Tier 2 and 3 applicants, 54% fully agreed that the time and resources required to complete the registration application were reasonable—with a further 38% partly agreeing. Only one Tier 3 provided highlighted that the workload was unreasonable—highlighting that further streamlining of documentary evidence may be needed for small, volunteer based providers such as Housing Coops.

The experience of Tier 2 and 3 providers to date highlight that:

- The implementation of the NRSCH has been reasonably successful in ensuring that regulatory burden is proportionate to risk
- The six-week time frame for submitting an application for registration is only likely to be appropriate if providers have a reasonable period of time to prepare prior to the commencement data
- Smaller providers and providers who have not previously participated in a NRSCH-style regulatory system may need additional support to prepare for registration
- Regular reviews will be needed to ensure all collected information is absolutely essential for assessing the achievement of the NRS performance outcomes.

These issues are further discussed in relation to provider feedback on the information and support required to efficiently participate in the registration process (see Section 4.5 and Section 5 – Recommendation 12).

### 3.3 Performance metrics and thresholds

Phase 1 providers raised a number of issues related to the performance metrics and thresholds embedded in the AFR Form. Specifically, the need to:

- Better communicate the nature of the ‘red, amber, green’ traffic lights associated with each metric—given that some providers were interpreting a ‘red light’ as a ‘fail’ rather than an area to explore as a line of inquiry. It was suggested that the colours could be replaced by text highlighting that ‘red’ means that Registrars are likely to request more information to clarify the achievement of the performance outcome
- Publish the thresholds for each performance metrics in the Application Guidelines—including providing information on the evidence base for establishing the thresholds. It was suggested that where the current evidence base for a particular threshold is weak, the Application Guidelines could highlight that the threshold is subject to change as additional sector-wide information becomes available
- Better align the NRS performance metrics with the reporting requirements of jurisdictions policy and funding agencies. Several providers raised concerns that the NRS metrics did not align with the data reported to policy and funding agencies—which for multi-jurisdictional providers could mean having to reconfigure their data for each state and territory where they operate. The expectation is that jurisdictional policy and funding agencies need to either stop collecting information that is already reported to the Registrar, or change any reporting requirements to fully align with the NRS performance metrics
Promote the risk-based approach to regulation to Boards and external stakeholders so they understand how thresholds are used by Registrars. Some providers raised concerns that external stakeholders such as banks will treat thresholds as benchmarks and draw negative conclusions about providers that do not meet the thresholds. Others suggested that entity Board’s may become overly focussed on meet thresholds with the risk of the “thresholds driving the business rather than the thresholds reflecting the sector's business.”

Despite these broad comments, there were very few specific examples raised by Phase 1 providers about individual metrics and thresholds that should be changed prior to the commencement of Phase 2. Specific suggestions included:

- The threshold for the tenancy survey response rate (50%) appears to be not in line with sector best practice—and fails to address the more substantive issue of the rigour and appropriateness of the survey methodology
- The metrics for tenancy turnover (Outcome 6.1) appears to be not calculated correctly within the CHRIS system and some providers had concerns about the appropriateness of the thresholds
- The thresholds for rent foregone through voids (50%) and rent outstanding (50%) appear to be accidental errors.

Most of the other specific examples raised by providers related to instances where there was a risk that the metric and threshold may be inappropriately interpreted out of context. For example, providers who operate rooming houses have a large proportion of tenants with high needs and are very transient—leading to rent arrears above the 2% threshold. In South Australia, providers may be unable to meet the cash flow ratio because of the unique funding arrangements where surpluses are paid to the Housing Agency. There were also general concerns about the interpretation of the concept of tenant engagement and the risk that the requirements were too prescriptive.

There was also a general concern that many of the financial ratios needed to be interpreted as a suite of metrics in the context of the provider’s business—given that no single metric told the story of financial viability.

The experience to date of the performance metrics and thresholds highlight that:

- The current performance metrics and thresholds (with the exception of tenancy survey response rate) appear to be broadly fit for purpose. This does not mean that they are ‘perfect’—rather it means that they provide a reasonable starting point for Phase 2
- The performance metrics and thresholds will need to be systematically reviewed on an ongoing basis as more comprehensive information becomes available during the first two years of Phase 2
- The performance metrics and thresholds need to be viewed in the broader context of the risk profiling tool that is being developed as part of the compliance methodology—given that it is the cumulative impact of a number of metrics that raises the risk profile rather than an individual metric.
• More work is needed to communicate to providers and external stakeholders how thresholds are used to assess the achievement of the NRSCH outcomes.

Specifically, prior to the commencement of Phase 2 it will be important to publish and promote details the performance metrics in the Registration Application Guidance Note and put in place a formal process for ongoing refine and refinement of the thresholds using new information collected through Phase 2 (see Section 5 - Recommendation 6).

### 3.4 Financial Performance Report

Phase 1 providers raised a number of concerns about the format and configuration of the Financial Performance Report (FPR). Specifically, some providers were concerned that the:

• FPR required substantial effort to produce the required data in the segmented reporting format. A number of Tier 2 and 3 providers commented that the FPR was complex to understand and resulted in additional costs as a result of needing to contract their accountant to prepare the required financial information. In other cases, providers were unable to extract the required information within the six week application time frame and submitted incomplete FPRs.

• FPR did not align with the previous requirements for financial reporting to jurisdictional Housing Agencies—particularly the requirement to segment financial data into corporate overheads; long-term owned housing business; long-term management housing business; short-term housing business and other non-housing business activities.

• FPR definitions do not match current reporting practices used by jurisdictional Housing Agencies. For example, allowable expenditures to be included in corporate overheads differ between the NRSCH and state Housing Agencies. There was also concern with jurisdictional differences in the treatment of NRAS properties within the segmented financial report.

• FPR contained errors on the formulas in the financial spreadsheet. These queried were raised with their Registrar but they did not receive a response prior to the submission deadline.

A small number of providers suggested that the mandatory requirement to complete the FPR was at odds with the principles in the Evidence Guidelines that state that “a community housing provider can present evidence in its existing form and is not expected to reconfigure its key business documents.”

At the progress report validation teleconference with Phase 1 providers, the consensus view was that the FPR was broadly fit for purpose and it was reasonable to include as a mandatory evidence requirement—recognising that a standard NRSCH financial reporting format was essential to ensuring nationally consistent assessments of financial viability. However, providers highlighted that significantly more advance notice of the standard format was needed so that the reporting could be built into their normal financial management audit cycle. It was also noted that the Phase 1 FPRs were someone artificial in that they were not supported by current year audited financial statements.
To support the use of the FPR in Phase 2, a number of communication and support strategies should be considered (see Section 5 – Recommendation 7) including:

- Reviewing the Financial Viability Guidance Note to provide more information on why segmented financial reporting is important, how the segmented information is used by Registrars, and what providers need to do to prepare for submitting the FPR.
- Publishing the Financial Performance Report on the NRSCH website to maximise the time available for Phase 2 applicants to prepare financial information in the required format.
- Developing a specialist training module for community housing Chief Financial Officers on completing the FPR.

### 3.5 Registration timeframe

The Phase 1 registration assessment was an 18 week process (Table 1). Most providers raised concerns about aspects of the timeframe for Phase 1—in particular the:

- Two weeks between the release of documents for Phase 1 and the commencement of the application process.
- Six week allocated for collating and submitting the required evidence in the Application for Registration Form.
- One week allocated to responding to the draft determination.

#### Table 3.1: Phase 1 registration timeframe

<table>
<thead>
<tr>
<th>Stage</th>
<th>Process</th>
<th>Time frame</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initiation</td>
<td>Provider contacted by Primary Regulatory Office to initiate application process</td>
<td>1 week</td>
</tr>
<tr>
<td>Eligibility and Tier Form</td>
<td>Provider complete and submit</td>
<td>2 weeks</td>
</tr>
<tr>
<td></td>
<td>Registration assessment</td>
<td>1 week</td>
</tr>
<tr>
<td>Application for Registration</td>
<td>Provider complete and submit</td>
<td>6 weeks</td>
</tr>
<tr>
<td></td>
<td>Registration assessment</td>
<td>6 weeks</td>
</tr>
<tr>
<td>Determination</td>
<td>Provider response to draft determination</td>
<td>1 week</td>
</tr>
<tr>
<td></td>
<td>Final Registrar determination</td>
<td>1 week</td>
</tr>
</tbody>
</table>

Some providers indicated that to meet the Phase 1 timeframe, staff had to be taken ‘off-line’ and, in some cases, additional contractors brought in to assist with the preparation of evidence.

Overall, providers indicated that most of these concerns related to the ‘pilot’ nature of the Phase 1—where providers had only limited time to become familiar with the requirements for registration prior to preparing their evidence submissions. This was particularly problematic in terms of completing the Financial Performance Report.
Providers also recognised the danger of extending the application period—which could lead to “dragging out the process” and having large number of applications left ‘open’ for extended periods of time while the final determination is negotiated.

Registrars indicated that, within the consistent of a testing Phase, the time allowed for assessing the evidence and making a determination was reasonable.

On balance, it appears that the registration timeframe is fit-for-purpose for Phase 2—but that greater emphasise needs to be placed on providers preparing for registration—ideally at least 6 months prior to the commencement of the process. It is clear from the testing that providers who start an application hoping to ‘learn on the run’ are likely to experience significant problems.

It is critical that communication and support strategies for Phase 2 emphasise the importance of early preparation to streamline the application process (see Section 5 – Recommendation 12).

### 3.6 Information sharing

A number of Phase 1 providers had strong concerns about the lack of clarity of arrangements for information sharing between Registrars and jurisdictional Housing Agencies—in particular the protection of Board-in-confidence and commercial-in-confidence documents provided to the Registrar as part of the Registration application. These providers indicated that they were reluctant to provide such information when it was unclear who would have access to it and what safeguards were in place to ensure it was not being used for purposes other than regulatory assessment and compliance.

While the NRSCH Regulatory Framework refers to the development of Information Sharing Guidelines, these were not in place for Phase 1.

These comments highlight that priority needs to be given to finalising the Information Sharing Guidelines—in particularly clarifying the obligations on Registrars to not share Board-in-confidence and commercial-in-confidence documents with third parties including Housing Agencies without the consent of providers. It is anticipated that the Guidelines would also codify those situations where it is appropriate for Registrars to notify Housing Agencies of a serious risk to tenants, community housing assets or the reputation of the sector (see Section 5 – Recommendation 11).

### 3.7 Communication with Registrars

The vast majority of Phase 1 providers were satisfied (85%) or partly satisfied (10%) with communication with their Primary Registrar—with only one provider expressing dissatisfaction. In this case, they raised concerns about ongoing delays in receiving responses to queries.

A number of providers highlighted the proactive approach of their Registrar in supporting their participation in Phase 1—including visiting organisations to directly
work through any questions and concerns. In one case, a Registrar analyst meet with the provider’s Chief Finance Officer to discuss the details of the Financial Performance Report. This provider commented that this process resolved their queries and made it much easier to complete the FPR.

In other cases—particularly in jurisdictions without previous experience of a regulatory system—providers commented that Registrar analysts were on a “very steep learning curve” and this limited the depth of advice and support they were able to obtain in completing their application for registration.

There were a small number of providers that raised concerns about the lack of responsiveness of their Registrar—highlighting examples where there had been extensive delays or no response to telephone or email queries. In other cases, there was concern about the lack of communication in the one jurisdiction that had delayed releasing the draft determinations. While this was not the experience of most Phase 1 participants, it highlighted the importance of Registrars developing and adopting clear customer service standards—including specific commitments for Registrars to respond to queries within an agreed timeframe and to notify applicants if there is a delay in finalising their registration determination (see Section 5 – Recommendation 10).

More broadly, providers were still concerned in a number of jurisdictions that there was no clear separation between the regulatory and policy/funding functions—which was seen as an essential prerequisite for trusted communication with Registrars on an ongoing basis (see Section 5 – Recommendation 2).
4. **Assessment and determination**

Under the NRSCH National Law, the primary Registrar for a community housing provider must approve an application for registration if the Registrar is satisfied that:

- a) the entity provides or intends to provide community housing in a participating jurisdiction, and
- b) the entity will comply with the community housing legislation of the participating jurisdictions, and
- c) the entity will comply with any conditions to which its registration, or registration as varied, will be subject, and
- d) approval of the application is appropriate in the circumstances.

4.1 **Assessment methodology**

The methodology for undertaking Registration assessments is documented in the *Phase 1 Registration Assessment Methodology*. This document is for internal use only and was used by Registrars to review evidence submitted in the application form against the seven National Regulatory Code performance outcomes. The methodology includes an Application Assessment Table that mirrors the layout of the performance outcomes and requirements presented in the Evidence Guidelines—with the addition of a column that provides prompts for lines of enquiry and congruency checks. For each performance requirement, the table provides examples of ‘amber’ and ‘red’ flags which signal the need for further investigation to determine whether the provider has demonstrated the capacity to comply.

Feedback from Registrars highlighted that the *Registration Assessment Methodology* was broadly fit for purpose for Phase 2 although a number of improvements were identified (see Section 5 – Recommendation 13)—namely:

- Fully integrating the set of Financial and Non-Financial Performance metrics and thresholds into the Application Assessment Table—so that quantitative and qualitative information were considered together in assessing each performance requirement
- Strengthening guidance on lines of enquiry and supporting information associated with key performance requirements
- Strengthening guidance on lines of enquiry relevant to assessing controls in relation to affiliated entity arrangements.

Specifically, Registrars identified a number of areas where the guidance in the methodology could be strengthened to promote nationally-consistent assessment (Table 4.1).
<table>
<thead>
<tr>
<th>Outcome</th>
<th>Key points</th>
<th>Possible methodology improvements</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Tenant and housing services</td>
<td>Difficulty of assessing compliance of multi-jurisdictional providers with legal and policy requirements in all participating jurisdictions (given the different jurisdictional requirements)</td>
<td>Policy / Funding Agencies in participating jurisdiction to prepare a consolidated summary of key lines of inquiry for assessing legal and policy requirements related to eligibility, allocation, termination and rent</td>
</tr>
<tr>
<td></td>
<td>Difficulty for analysts assessing the impact of affiliated entity arrangements on exercising control over decisions that impact on achievement of tenant and housing service performance requirements</td>
<td>Additional section in the Outcome 1 Methodology on lines of inquiry to assess control of decisions that impact on achievement of tenant and housing service performance requirements</td>
</tr>
<tr>
<td>2. Housing assets</td>
<td>Difficulty of determining adequacy of property condition assessment—both because of a lack of guidance on key risks and the different legal and policy requirements related to property conditions across participating jurisdictions.</td>
<td>Policy / Funding Agencies in participating jurisdiction to prepare a consolidated summary of key lines of inquiry for assessing legal and policy requirements related to property conditions</td>
</tr>
<tr>
<td></td>
<td>Need for additional clarity in determining the adequacy of strategic asset management for Tier 1 (compared to Tiers 2 and 3)—which refers to “integrated” systems and processes for monitoring compliance with property condition standards</td>
<td>Additional information in Outcome 2 Methodology about lines of inquiry to assessing adequacy of asset monitoring systems and processes for Tier 1, 2 and 3</td>
</tr>
<tr>
<td></td>
<td>Need for stronger lines of enquiry in methodology for assessing links between asset and financial plans</td>
<td>Additional information in Outcome 2 Methodology about lines of inquiry to assess links between asset plans / property condition assessments and financial provisions for asset management</td>
</tr>
<tr>
<td></td>
<td>Difficulty for analysts assessing the impact of affiliated entity arrangements on exercising control over decisions that impact on achievement of housing development program / projects</td>
<td>Additional section in the Outcome 2 Methodology on lines of inquiry to assess control of decisions that impact on achievement of asset development plans</td>
</tr>
<tr>
<td>3. Community Engagement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Governance</td>
<td>Need for additional information for assessing whether the providers operate in accordance with a code of governance consistent with the ASX Corporate Governance Principles</td>
<td>Inclusion of checklist in Methodology about lines of enquiry to assess alignment with ASX Corporate Governance Principles</td>
</tr>
<tr>
<td></td>
<td>Difficulty for analysts assessing the impact of affiliated entity arrangements on exercising control over business, risk and financial plans</td>
<td>Additional section in the Outcome 4 Methodology on lines of inquiry to assess impact of AEA on control of business, risk and financial plans</td>
</tr>
<tr>
<td>Outcome</td>
<td>Key points</td>
<td>Possible methodology improvements</td>
</tr>
<tr>
<td>---------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| 5. Probit     | • Difficulty of determining adequacy and robustness of fraud prevention and detection systems (and distinction between Tier 1 ‘integrated systems’ and Tier 2 ‘systems’)  
• Performance requirement 5d [provider notifying the Registrar of incidents] is not assessable at Registration | • Additional information in Outcome 5  
Methodology about lines of enquiry to assessing adequacy of fraud prevention and detection systems  
• Change Evidence Guidelines 5d to “a provider having systems in place and operating in accordance with the systems” |
| 6. Management | • Need for additional clarity in determining congruency between business, financial, asset and development plans—particularly for Tier 1 providers and Tier 2 providers with moderate development activities  
• Need for additional clarity in determining congruency between risk plan / register and business, financial, asset, development plans and outcomes  
• Performance requirement 6a (2) [provider generates and utilises surplus to achieve its business goals] is redundant as it overlap with 6a (1) [Business planning process includes an assessment of costs and returns on assets and funding to meet business goals] | • Additional cross-outcome section in the Methodology on lines of enquiry to assess congruency between business, financial, asset and development plans  
• Additional cross-outcome section in the Methodology on lines of enquiry to assess congruency between risk management and business, financial, asset and development plans & outcomes  
• Change to the Evidence Guidelines to remove performance requirement 6 (a) (2) [which is already covered by 6 (a) (1)] |
| 7. Financial viability | • Difficulty of assessing financial viability when the Financial Performance Report is submitted—but data is not segmented into the required five segments  
• Need for additional clarity in determining materiality of issues impacting on financial viability—particularly for Tier 1 providers and Tier 2 providers with moderate development activities | • Additional information in Outcome 7  
Methodology about lines of enquiry and interpretation of financial viability where comprehensive (but non-segmented) financial data is submitted  
• Additional information in Outcome 7  
Methodology about lines of enquiry where there is significant variance between actual financial performance and the financial metric thresholds. |

In a number of these areas, Registrars highlighted that strengthening the documentation on the assessment methodology needed to be accompanied by ‘hands-on’ analyst training and support to build the experience to deliver sound and robust assessments (see Section 5 – Recommendation 14). Priority areas for analyst training and support include:

- Assessing the adequacy of performance monitoring and risk management practices and plans
- Assessing congruence in achieving ‘whole of entity’ business, financial, asset and development goals
- Assessing the materiality of affiliated entity arrangements that impact of the control of the achievement of the performance outcomes
- Assessing multi-jurisdictional compliance with relevant legal and policy requirements.
4.2 Draft registration determinations

Of the 23 providers participating in Phase 1, 19 providers have received a draft report outlining the Phase 1 registration determination—with one provider voluntarily withdrawing because of competing business pressure and time constraints in Phase 1; and three providers from one jurisdiction that are still awaiting their report.

Overall, 50% of these providers (86% of Tier 1; 50% of Tier 2; 33% of Tier 3) received an unqualified determination indicating that they had demonstrated the capacity to meet the requirements for registration assessed in Phase 1.

The remaining 50% all received qualified determinations (14% of Tier 1; 50% of Tier 2; 67% of Tier 3) indicating that the provider would need to submit additional evidence to complete the registration assessment. Registrars highlighted that the qualified determinations in large part reflected the Phase 1 timetable that did not allow sufficient time for providers to submit all the required evidence or for Registrars to work with providers to clarify additional evidence requirements. This particularly impacted on Tier 3 providers’ capacity to submit the required financial information.

In all cases, Registrars made recommendations for submitting additional evidence and / or improvement opportunities to demonstrate full compliance. A summary of the key themes in Registrar assessments is summarised in Table 4.2.

Registrar recommendations highlighted that:

- A range of providers, particular Tier 3 providers, struggled within the Phase 1 timeframe to submit segmented financial data in the Financial Performance Report format—limiting the evidence available to Registrars to fully assess financial viability. In the vast majority of cases, Registrars indicated that given additional time they expected these providers to be able to demonstrate their financial viability.
- Some Tier 2 and 3 providers require improvements to their policies and systems to better demonstrate the achievement of performance requirements related to governance, management and asset maintenance.
- Some Tier 1 and 2 providers require improvements to their systems to better demonstrate the identification and management of key financial risks—particularly those associated with development activities.
- Most providers need to develop new policies and procedures to meet specific performance requirements—including whistle-blower protection; and Registrar incident notification.

In addition, Registrars flagged a number of priorities for disseminating information to promote good practice. Based on the Phase 1 assessments, possible areas include:

- Risk management (identification and controls)
- Business planning – setting, monitoring and reporting on clear goals and targets for financial, asset, tenancy performance
- Scenario testing on development projects / sensitivity analysis on forecast assumptions in business plans
- Service charters and customer feedback.
### Table 4.2: Key themes in Registrar assessments of capacity to comply and improvement actions to demonstrate compliance

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Tier 1</th>
<th>Tier 2</th>
<th>Tier 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Tenant and housing services</td>
<td>Adequacy of customer service charter / information provided to applicants and tenants</td>
<td>Adequacy of tenant survey methods / data</td>
<td>Adequacy of information provided to tenants and applicants on key policies such as rent and allocations</td>
</tr>
<tr>
<td></td>
<td>Adequacy of evidence submitted by multi-jurisdictional providers to demonstrate that tenancy management policies align with legal and policy requirements in all participant jurisdictions</td>
<td>Evidence of analysis of complaints, appeals and tenant feedback to identify service improvement actions</td>
<td>Adequacy of tenant feedback processes—particularly with respect to complaints handling</td>
</tr>
<tr>
<td></td>
<td>Adequacy of tenant survey methods / data regarding overall quality of services; satisfaction with property condition; satisfaction with maintenance of property</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Housing assets</td>
<td>Adequacy of evidence submitted to demonstrate appropriate monitoring of property condition to meet relevant property standards and legislative requirements (in all jurisdictions)</td>
<td>Adequacy of long-term strategic asset management plans</td>
<td>Adequacy of asset policies and plans to ensure planned cyclical maintenance is undertaken to maintain property condition</td>
</tr>
<tr>
<td></td>
<td>Clarification of responsibility of the provider and / or SHA for resolving unfunded maintenance liability identified in Strategic Asset Management Plan</td>
<td>Adequacy of evidence to demonstrate appropriate monitoring of property condition to meet relevant property standards and legislative requirements</td>
<td>Adequacy of asset policies / procedures outlining property condition standards and frequency of property condition inspections</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Adequacy of asset policies / procedures outlining property condition standards and frequency of property condition inspections</td>
<td>Adequacy of record keeping on urgent and non-urgent repairs to accurately report on completions</td>
</tr>
<tr>
<td>3. Community Engagement</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>4. Governance</td>
<td>Adequacy of business continuity plans / succession planning</td>
<td>Adequacy of evidence about Board members skills (against Board/governance policy)</td>
<td>Adequacy of evidence to demonstrate appropriate controls are in place (e.g. meeting agenda, minutes, reports)</td>
</tr>
<tr>
<td></td>
<td>Adequacy of systems for reviewing Board performance</td>
<td>Adequacy of processes for review Board performance</td>
<td>Information about skills and experience of Board—relevant to scale and scope of community housing activities</td>
</tr>
<tr>
<td></td>
<td>Adequacy of systems for identifying, controlling and reporting on risks</td>
<td>Lack of Board sub-committee with oversight of risk management and audit</td>
<td></td>
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<tr>
<td></td>
<td>Adequacy of evidence to demonstrate boards controls in relation to affiliated entities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Outcome</td>
<td>Tier 1</td>
<td>Tier 2</td>
<td>Tier 3</td>
</tr>
<tr>
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</tr>
</tbody>
</table>
| 5. Probit | ▪ Lack of policies and procedures for notifications to Registrar of incidents that could affect the reputation of the sector  
▪ Lack of policies and procedures for whistle-blower protection (all tiers)  
▪ Policies and procedures for notifications to Registrar (all tiers) | ▪ Adequacy of reviews of probity policies e.g. police checks  
▪ Lack of clear responsibility for oversight of policies for fraud prevention and detection  
▪ Lack of evidence about conducting bankruptcy checks of employees in key financial roles | ▪ Lack of a policy for making employment and appointment checks  
▪ Lack of explicit guidance in Code of Conduct on how to ensure staff act in accordance with principles of probity whilst engaging in procurement activities |
| 6. Management | ▪ Adequacy of evidence to demonstrate how the organisation’s projected business growth will be achieved and sustained within current resource constraints | ▪ Adequacy of business plans / business cases for major organisational changes and projects  
▪ Adequacy of risk management system to ensure key risks are identified and mitigated  
▪ Adequacy of evidence about strategies and targets to meet business plan goals | ▪ Develop and / or finalise a business / strategic plan  
▪ Review record management  
▪ Adequacy of evidence about how assets and funding will be used to meet business goals |
| 7. Financial viability | ▪ Gaps in submission of segmented financial information in the Financial Performance Report format (all Tiers)  
▪ Gaps in submission of consolidated entity financial information in the Financial Performance Report format (multi-jurisdictional / providers with AEA)  
▪ Adequacy of financial forecasts and sensitivity analysis incorporating different assumptions to test business strategy against combinations of potential threats /risks  
▪ Adequacy of systems for undertaking due diligence for development project assessment and approval | ▪ Adequacy of evidence about the alignment between the FPR and business plan  
▪ Adequacy of evidence that the Board had established adequate financial performance KPIs  
▪ Adequacy of alignment between asset maintenance plan and budget  
▪ Adequacy of systems for internal control of all cash collections and payments to ensure they are properly recorded and accounted for | ▪ Lack of alignment between historical information in FPR and the audited financial statements  
▪ Adequacy of evidence about plans to address current operating deficits  
▪ Adequacy of evidence to demonstrate how capital refurbishment grants were accounted for  
▪ Inclusion of a cash-flow statement to provide transparency on items such as sinking fund expenditure |
4.3 Consistency and quality control

The six Registrars that undertook Phase 1 assessments all actively participated in review and validation workshops to promote consistent and high quality assessments and determinations.

A content analysis of the draft determinations highlighted that all determinations were consistent with the requirements of the National Law and the gazetted guidelines—with the determinations making a clear distinction between additional information necessary for registration and recommendations to better demonstrate ongoing compliance.

At the same time, a number of potential areas of inconsistency were identified.

- **Ensuring alignment in the risk tolerance of Registrars in assessing capacity to comply**
  There were a number of examples where the same issue was raised by one Registrar as requiring additional evidence prior to Registration (to demonstrate capacity to comply)—but by another Registrar as an improvement recommendation for demonstrating compliance. Examples included requirements for whistle-blower provisions in the Code of Conduct; and the creation of a policy for notifying the Registrar about incidents that damage.

  In one case, the Registrar concluded that the applicant had demonstrated appropriate systems for developing and maintaining policies and procedures—and therefore had the capacity to update these policies to meet the specific performance requirement prior to the next compliance assessment. In another case dealing with the same issue, a different Registrar concluded that the applicant could only demonstrate capacity by actually updating the policies prior to registration.

  In the particular context, both may be reasonable assessments—but it appears that they reflect different risk tolerances for accepting that a provider has a capacity to comply. It will be essential for national consistency that Registrars agree on standard risk tolerance for particular performance requirements.

- **Ensuring proportionality for Tier 3 providers**
  There were a number of examples of recommendation made to Tier 3 providers to demonstrate compliance that related to requirements that are flagged in the Evidence Guidelines as only relevant to Tier 1 and 2 providers.

  For example, it was recommend that a Tier 3 providers have its risk management system reviewed to ensure consistency with relevant AUS/NZ/ISO risk management standards—even though the evidence guidelines has this as a thresholds and evidence source for Tier 1 and 2 providers. In another example, a Tier 3 provider determination indicated that prior to registration the provider needed to ensure there was relevant tenant information about policies and procedures on a website—even though the evidence guidelines only suggest a website as an appropriate source of evidence for Tier 1 and 2 providers.
Again in context, both may be reasonable recommendations—but both examples appear to be overly proscriptive improvement actions for a Tier 3 provider.

**Ensuring requirements for additional information are clear**

There were a number of examples of requirements for additional information and recommendations for improvement that simply repeated the performance requirement without communicating the ‘evidence gap’.

For example, one determination indicated that the additional information required for registration was “Information from the provider about performance requirement 7a – demonstrating how assets and funding are used to meet business goals”. In this case the Tier 3 provider indicated that they were unclear what additional information the Registrar wanted as they had submitted detailed budgets and reports against the budget from their Finance and Risk Board Sub-Committee.

In another example, the determination indicated that the additional information required for registration was to “Submit an updated Financial Performance Report at the time of regulatory assessment and any further associated evidence.”

Both examples appear to provide little guidance to the provider as to why they have not met the evidence requirements for registration and what additional evidence is required.

Rather than systemic flaws, these examples highlight the need for a greater emphasis on quality control and critical peer challenging—to promote national consistency in registration determinations (see Section 5 – Recommendation 15).

### 4.4 Provider feedback on draft determinations

Phase 1 providers were generally satisfied with the transparency and validity of the draft Registration determination.

- 64% of Phase 1 providers agreed and a further 29% partly agreed that the registration assessment findings were adequately documented in the draft report
- 60% of Phase 1 providers agreed and a further 33% partly agreed that the basis for the registration determination was transparent
- 60% of Phase 1 providers agreed and a further 33% partly agreed that the recommendations and improvement actions identified in the draft report were sound.

Only one Phase 1 provider raised strong concerns about their draft registration report and determination—and their feedback primarily related to issues about confusion between the jurisdictional mirror legislation and the National Law.

In other cases, the majority of providers believed that the draft determination was sound and that they could meet any additional evidence requirements prior to
registration or address recommendations for improvement prior to the first compliance assessment.

At the same time, Phase 1 providers had a number of concerns about the presentation and level of detail in the report findings. Specifically:

- Presenting the finding in a way that unambiguously communicates which performance requirements the applicant had demonstrated the capacity to comply with (or had not demonstrated the capacity to comply with).
- Providing greater detail on the specific reasons and requirements that had not been met to demonstrate the capacity to comply with a particular performance requirement—which were often stated too broadly for providers to understand the threshold requirements for additional evidence or system changes.
- Providing additional contextual information to understand the rationale for recommendations made about demonstrating ongoing compliance.

Some Phase 1 providers found the supporting text in the determination letter very confusing and bureaucratic—and suggested the readability of the reports could be improved by moving all the caveats to Attachments.

Other providers expressed disappointment about the lack of positive feedback on areas where the provider has demonstrated above ‘thresholds’ performance. In general, a number of providers commented that they expected to see more quantitative data summaries in the report—given that so much of the registration application was focused on the collection of the performance data sets.

For Phase 2, these issues could be addressed by restructuring the determination report around a single table that lists all outcomes (and each performance requirement within the outcome)—with columns for recording:

- a ‘Yes / No’ response as to whether the applicant had demonstrated the capacity to comply
- requirements that would have to be met to demonstrate the capacity to comply (where a ‘No’ response is recorded)
- recommendations (if any) that should be considered by the provider to demonstrate ongoing compliance.

The use of the determination report could also be improved by removing most of the technical supporting text to attachments and including a glossary of key terms—including ‘capacity to comply’, ‘requirements’ and ‘recommendations’ (see Section 5 – Recommendation 8).
4.5 Preparation for Phase 2

Apart from their experience of the application process and draft registration determination, providers raised a number of broader issues that they believe will impact on the success of Phase 2—covering both advice on the information and support that will be needed by Phase 2 applicants and systemic issues related to the integrity of the NRSCH.

4.5.1 Information and support for Phase 2 applicants

Separate to jurisdictional industry development strategies which may be needed to improve provider’s capacity to meet the NRSCH performance outcomes, a smooth transition to the national regulatory system requires providers to be well-informed and well-prepared prior to submitting their registration applications.

Based on the experience of Phase 1, an upfront investment in information dissemination, training and technical advice is needed to ensure Registrar resources can be productively used to undertake registration assessments—rather than unproductively attempting to build the capacity of under-prepared applicants (see Section 5 – Recommendation 10).

Key areas for preparation and support include:

- completing the Financial Performance Report
- business planning (including monitoring and reporting performance)
- risk identification and mitigation
- governance control
- disclosure of affiliated entity arrangements.

4.5.2 Integrity of the NRSCH

In addition to the operational issues concerning applying for registration, Phase 1 providers highlighted the importance of continue to progress work on outstanding elements of the NRSCH (see Section 5 – Recommendation 16). Key issues included:

- **Confirming NRSCH participating jurisdictions**
  A number of providers indicated that the lack of certainty about whether all jurisdictions would participate in the NRSCH had impacted on their decisions about which legal entity they used to apply for Phase 1 registration. While this issue has little impact for Tier 3 providers, a number of Tier 1 and 2 providers indicated that the continued uncertainty about participating jurisdictions had the potential to undermine the integrity of the NRSCH. They indicated that if the issue remained unresolved it may distort providers decisions about how to participant in the NRSCH.

- **Confusion over mirror legislation**
  The mirror legislation of the National Law adopted in one participating jurisdiction has created some confusion—with one provider believing that they had been seeking registration as a state provider and obtaining legal advice that the National
Law provisions such as those related to wind-up and notifications of adverse events did not legally apply to them.

The fact that the mirror legislation is drafted differently to legislation that applies or refers to the National Law directly may create some further uncertainty for Phase 2. To guard against this, mirror law jurisdictions will need to pay particular attention to communication and engagement with providers to ensure they understand the concurrence between the jurisdiction legislation and the National Law. This will be particularly critical to ensure a nationally consistent approach to mandatory conditions of registration such as the wind-up clause and notifications of adverse events.

- **Establishment of the National Regulatory Council**
  Phase 1 providers highlighted the pivotal role of an independent National Regulatory Council to monitor and provide advice to Ministers on the integrity of the NRSCH.

  Phase 1 providers expressed concerns that the Council had not been established to date—and that any delays in its commencement could undermine stakeholder confidence in the NRSCH.

- **Separation of regulatory and policy / funding decisions**
  Phase 1 providers highlighted that the current suite of Guidance documents did not provide an explicit commitment to the separation of regulatory and policy / funding decisions—even through this had been extensively referred to in previous communiqués.

- **Minimising duplication of reporting**
  Phase 1 providers highlighted the level of regulatory engagement in the NRSCH would only remain reasonable if there was no unnecessary duplication of reporting—particularly to jurisdictional Housing Agencies and the Australian Charities and Not-for-Profit.
5. Conclusions and recommendations

Overall, within the constraints of a testing phase, community housing providers participating in Phase 1 were satisfied that the guidelines, procedures and systems for registration through the National Regulatory System for Community Housing (NRSCH) were fit-for-purpose.

Registrars from the six jurisdictions that undertook Phase 1 registration assessments (NSW, Vic, Qld, SA, WA, ACT) confirmed that they were able to systematically and consistently apply the agreed NRSCH guidelines and procedures.

No critical ‘flaws’ were identified in the application of the Phase 1 guidelines, procedures and systems—with providers and Registrars confirming that they provide a sound foundation for full implementation in Phase 2.

At the same time, providers and Registrars highlighted a range of improvement opportunities that should be considered for Phase 2—as well as recognising the need for ongoing system development and evaluation to continue to refine the evidence requirements, performance thresholds and supporting documentation as greater experience is gained throughout Phase 2.

Recommendation 1: That the suite of NRSCH documents (Guidelines; Guidance Notes) be reviewed and re-published prior to Phase 2 to ensure alignment and consistency of the policy intent, concepts and terminology.

Feedback from providers and Registrars highlighted a range of inconsistencies and ambiguities between the various Phase 1 Guidelines and Guidance Notes and between these documents and the CHRIS portal—in large part reflecting the evolutionary nature of their development and the large (and growing) number of guidelines and guidance notes. Specifically the:

a) Regulatory Framework should be revised and published as the central document of NRSCH regulatory policy (see Recommendation 2)

b) Tier Guidelines should be reviewed and a new version gazetted to remove ambiguities about the determination of tier (see Recommendation 3)

c) Evidence Guidelines should be reviewed and a new version gazetted to
   – incorporate the revised metrics and thresholds in the Financial and Performance/Entity data sets
   – incorporate clarifications to the performance indicators and evidence sources based on Registrar feedback on the Registration Assessment Methodology (see Table 4.1)

d) Registration Application Guidance Note should be reviewed and updated to
– incorporate attachments summarising the Financial and Performance/Entity data sets metrics and thresholds and the data requirements in the Asset Data Set
– incorporate a new diagram and description of the two-stage application process
– clarify the scope and purpose of submitting the Community Housing Asset Report

e) Financial Viability Guidance Note should be reviewed and updated to provide additional guidance on completing the segmented Financial Performance Report (see Recommendation 7)

f) Affiliated Entity Arrangements Guidance Note should be reviewed and updated to provide additional guidance on disclosure requirements (see Recommendation 5).

In addition, all Guidelines and Guidance Notes should be subject to a plain-English / legal due diligence check prior to gazetting and / or publishing.

**Recommendation 2. That priority should be given to reviewing and publishing the Regulatory Framework as the central document of regulatory policy**

Feedback from providers and Registrars highlighted that the current suite of NRSCH documents contain a mixture of regulatory policy and practice guidance which had lead to confusion and inconsistencies.

Priority should be given to re-developing and publishing the Regulatory Framework as the central document of NRSCH regulatory policy—clarifying the policy position on

- the national law and concordance with jurisdictional mirror laws (see Recommendation 16)
- separation of regulatory and policy / funding decisions
- risk-based approach to regulation and regulatory engagement
- eligibility requirements for registration—including explaining the policy position on the requirements related to incorporation; constitution wind-up clause; maintaining a list of community housing assets; undertaking community housing in a participating jurisdiction; disclosure of affiliated entity arrangements
- tier assessment—including explaining the policy position on determining tier based on scale and type of community housing activities (to promote a proportionate response to risk) without limiting the ability of a provider to apply to be registered in any tier
- compliance
- information sharing between Registrars and Housing Agencies (see Recommendation 11).
Recommendation 3. That the Tier Guidelines be reviewed and a new version gazetted to clarify ambiguities about determinations of tier

The Tier Guidelines needs to be revised to remove the current ambiguity about using information about scale and scope to determine provisional tier. Specifically:

a) Including a quantitative definition of scale of community housing activities (e.g. maximum of either the number of community housing tenancies or the number of community housing properties with asset management responsibilities)

b) Including a quantitative definition of the scope of development activities—as well as further guidance on what constitutes “committed” developments

c) Confirming the principles used by Registrars for making a provisional determination of Tier when a provider sits across the Tier boundaries

d) Reviewing (or removing) Clause 27 to clarity whether and how Registrars consider affiliated entity arrangements in making a determination of the registration Tier.

Recommendation 4. That the CHRIS Eligibility and Tier Form be simplified for Phase 2

The ETF component of the two-stage application process should be further simplified to collect the minimum information needed to determine general eligibility and provisional tier. Specifically:

a) Core details of the entity seeking registration

b) Details of incorporation status

c) Aligning the ETF questions to direct questions aligned to the eligibility criteria for registration

d) Removing requirements to submit the Annual Report and Business Plan (which are more appropriate to include as part of the full Application for Registration.

Recommendation 5. That the procedures for disclosing and assessing Affiliated Entity Arrangements be reviewed

While affiliated entity arrangements need to be disclosed in the ETF stage, their assessment should be transferred to the AFR stage and additional tools developed to support disclosure and consistent assessment. Specifically:

a) Providing a standard template within CHRIS for providers to submit evidence to demonstrate control for each declared affiliated entity arrangement

b) Developing a methodology for analysts to use during the AFR outlining the lines of enquiry to assess whether the submitted evidence meets the required threshold of demonstrating control—including a specific quality assurance / peer review process to support analysts in assessing complex affiliated entity arrangements.
Recommendation 6. That additional information be published about the use of Financial and Non-Financial performance metric and thresholds

The Financial and Non-Financial performance metric and thresholds used in Phase 1 appear to be fit-for-purpose for Phase 2—with the exception of the threshold for the Tenancy Survey Response rate.

The use of the metrics and thresholds can be improved by:

a) Publishing the thresholds for each performance metric in the Registration Application Guidance Note
b) Expanding the description on the Registration Application Guidance Note of how metrics and thresholds are used—and how the ‘red, amber, green’ metric traffic lights should be interpreted by providers
c) Undertaking an annual review of all metrics and thresholds using additional data information collected through Phase 2 registration and ongoing compliance assessments

Recommendation 7. That additional information and support be provided to make it easier for providers to prepare the Financial Performance Report

The FPR supports consistent and efficient assessment of provider financial performance—but that some Phase 1 providers struggled to provide data in the required format within the available time frame.

The use of the FPR can be improved by:

a) Reviewing the Financial Viability Guidance Note to provide more information on why segmented financial reporting is important, how the segmented information is used by Registrars, and what providers need to do to prepare for submitting the FPR
b) Publishing the Financial Performance Report on the NRSCH website to maximise the time available for Phase 2 applicants to prepare
c) Developing a specialist training module for Chief Financial Officers on completing the FPR

Recommendation 8. That the format for presenting the draft determinations be reviewed to improve their clarity and usefulness to registration applicants

The draft determination should include a single table that lists all performance outcomes (and each performance requirement within the outcome)—with columns for recording:

- a ‘Yes / No’ response as to whether the applicant had demonstrated the capacity to comply
- If relevant, requirements that would have to be met to demonstrate the capacity to comply (where a ‘No’ response is recorded)
- If relevant, recommendations that should be considered by the provider to demonstrate ongoing compliance.
In developing the draft determination, Registrars should ensure they record sufficient information about:

- the threshold requirements for additional evidence or system changes in order to demonstrate the capacity to comply
- the context and rationale for recommendations made about demonstrating ongoing compliance.

**Recommendation 9. That a CHRIS User Guide be prepared for Phase 2**

Given the volume of registration applications for Phase 2, it will be essential for the efficiency of Registration assessments that applicants are well-informed and able to self-resolve routine operational queries in using the CHRIS portal.

A CHRIS User Guide should be developed for providers (and Registrars) to provide self-help guidance on using the portal to submit the Eligibility and Tier Form (ETF) and the full Application for Registration (AFR).

**Recommendation 10. That Registrars develop and publish a set of service standards**

While most Phase 1 provider’s experienced a high degree of responsiveness and professionalism from their primary Registrar, there is a need to develop and adopt clear customer service standards—including specific commitments for Registrars to respond to queries within an agreed timeframe and to notify applicants if there is a delay in finalising their registration determination.

**Recommendation 11. That the Regulatory Framework outline the policy position on Information Sharing between Registrars and Housing Agencies**

A number of Phase 1 providers had strong concerns about the lack of clarity of arrangements for information sharing between Registrars and jurisdictional Housing Agencies—in particular the protection of Board-in-confidence and commercial-in-confidence documents provided to the Registrar as part of the Registration application.

The gazetted Regulatory Framework should clarify the specific obligations on Registrars to not share Board-in-confidence and commercial-in-confidence documents with third parties including Housing Agencies without the consent of providers. It is anticipated that the policy would also codify those situations where it is appropriate for Registrars to notify Housing Agencies of a serious risk to tenants, community housing assets or the reputation of the sector.

**Recommendation 12. That participating jurisdiction develop and implement strategies to ensure Phase 2 applicants have access to adequate technical advice and support prior to applying for Registration**

Separate to jurisdictional industry development strategies which may be needed to improve provider’s capacity to meet the NRSCH performance outcomes, a smooth
transition to the national regulatory system requires providers to be well-informed and well-prepared prior to submitting their registration applications. Based on the experience of Phase 1, an upfront investment in information dissemination, training and technical advice is needed to ensure Registrar resources can be productively used to undertake their assessment and other regulatory functions—rather than unproductively supporting under-prepared applicants.

Each participating jurisdiction should develop and implement strategies to ensure Phase 2 applicants operating their jurisdiction have access to adequate technical advice and support prior to applying for Registration—building on the initial national investment in training and support for Phase 2. The focus on training and technical advice should be on:

- completing the Financial Performance Report
- business planning (including monitoring performance)
- risk identification and mitigation
- governance control
- impact of affiliated entity arrangements
- using evidence from industry accreditation processes.

**Recommendation 13: That Registrar’s prepare an updated version of the Registration Assessment Methodology as an internal guidance document**

The *Registration Assessment Methodology* should be reviewed and updated to:

- Fully integrating the set of Financial and Non-Financial Performance metrics and thresholds into the Application Assessment Table—so that quantitative and qualitative information were considered together in assessing each performance requirement
- Strengthening guidance on lines of enquiry and supporting information associated with key performance requirements—as outlined in Table 4.1 of the report

**Recommendation 14: That participating jurisdiction ensure adequate resources are allocated to building capacity in Registrar offices**

While all six Registrars that undertook Phase 1 registration assessments delivered assessments and determinations that were consistent with the National Law and the gazetted guidelines, the evidence from Phase 1 highlighted the ongoing need to invest in building capacity in Registrar offices to ensure robust and nationally-consistent outcomes.

Each participating jurisdiction should develop and implement strategies to ensure Registrars have the resources to ensure analysts receive appropriate training in the national system and are able to participant in national ‘communities of practice’ to promote rigorous and nationally consistent assessments and determinations—particularly in relation to:
– Assessing the adequacy of performance monitoring and risk management practices and plans—particularly the congruence with business, financial, asset and development plans
– Assessing congruence in achieving ‘whole of entity’ business, financial, asset and development goals
– Assessing the materiality of affiliated entity arrangements that impact of the control of the achievement of the performance outcomes
– Assessing multi-jurisdictional compliance with relevant legal and policy requirements

**Recommendation 15: That Registrars develop and implement a formal quality control process for registration determinations**

While Phase 1 included a range of informal mechanisms to promote the quality of assessments and determinations across participating jurisdictions, more formal arrangements are appropriate for Phase 2.

Registrars should develop and implement a formal quality control process for registration determinations—for example, by ensuring a sample of all determinations are reviewed by a peer prior to their finalisation. The quality control process would ideally cover both internal reviews within the office of the Registrar and a smaller sample being reviewed by a Registrar / analysis from another jurisdiction.

**Recommendation 16. That HHMAC continue to progress work on outstanding elements of the NRSCH**

That HHMAC continue to progress work on outstanding elements of the NRSCH including

a) Confirming which jurisdictions are participating jurisdictions under the National Law
b) Reviewing any actual or potential inconsistencies between the National Law and mirrored legislation in participating jurisdictions
c) Confirming arrangements for establishing the National Regulatory Council
d) Reviewing opportunities to minimise any duplication between NRSCH requirements and reporting to jurisdictional policy and funding agencies and the Australian Charities and Not-for-Profit Commission.
Attachment 1: Evaluation methods

The methodology for answering the key evaluation questions involves a rolling-series of data collections involving the 25 Phase 1 community housing providers and the seven Phase 1 Registrars.

**NRSCH Phase 1 issues log (ongoing)**
An online issues log was established to allow Phase 1 providers and Registrars to log issues as they arose throughout the duration of Phase 1. The issues log was monitored and responded to by the CHRIS portal system developers.

**Phase 1 providers pre-assessment survey (August 2013)**
The pre-assessment survey of Phase 1 providers focussed on key evaluation questions related to the preparation for registration and completion of the Eligibility and Tier Form.

**Phase 1 Registrars ETF evaluation workshop (August 2013)**
The EFT workshop focussed on the establishment of the Registrar function and the processes and outcomes of assessing the Eligibility and Tier Forms submitted by Phase 1 applicants.

**Phase 1 providers application survey (September 2013)**
The survey of Phase 1 providers focussed on key evaluation questions related to the submission of the full Application for Registration (AFR).

**Phase 1 provider initial evaluation teleconference (September 2013)**
Teleconference with Phase 1 providers to review and validate evaluation finding on the Eligibility and Tier Form and full Application for Registration—presented in a preliminary evidence summary report.

**Phase 1 Registrars registration assessment workshop (October 2013)**
The registration assessment workshop focussed on the processes and outcomes of Registrar's assessing provider's capacity to comply—prior to preparation of the draft determinations.

**Phase 1 providers assessment survey (November 2013)**
The survey of Phase 1 providers focussed on key evaluation questions related to the receipt of the draft determination on their application for Registration.

**Phase 1 Registrars draft determination workshop (November 2013)**
The workshop focussed on the processes and outcomes of completing the draft determinations.

**Phase 1 providers final evaluation teleconference (November 2013)**
Separate teleconferences with Tier 1, 2 and 3 providers to confirm their feedback on the draft registration determination and their overall experiences of Phase 1.